



Commonwealth of Kentucky

MASTER AGREEMENT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: KY 2010 FLEET 32 FORD MERCURY (SOL S-05297095)			
Doc ID No: MA 758 C-05418566 13		Proc Folder: 15803	
Procurement Type: Standard Goods			
Effective Date: 2005-10-17		Expiration Date: 2010-10-16	
		Not To Exceed Amount	
Administered By: MICHAEL GUSTAFSON		Cited Authority: FAP111-35-00-G	
Telephone: 502-564-4510		Issued By: Michael Gustafson	

Reason For Modification: MODIFICATION #4-13 (DECEMBER 6, 2009) -

This Modification is to ADD new Catalog Line Items to the Master Agreement in accordance with the Terms and Conditions of the Master Agreement. This addition is at the request of EEC GAPS and the Vendor.

Line Items added are:

1002.41 - 2010 FORD F-150: XL PLUS PACKAGE OPTION

2010 FORD F-150: XL PLUS PACKAGE INCLUDES: AM / FM STEREO / CLOCK / SINGLE CD, CRUISE CONTROL AND MYKEY (ORDER CODE # 61X) OPTION. COST OF \$450.00.

1002.42 - 2010 FORD F-150 6.5 FOOT BED 145 IN WB (CREDIT)

2010 FORD F-150 6.5 FOOT BED (DEDUCT FOR 6.5 FT SHORT BED) 145 INCH WHEEL BASE (WB) (ORDER CODE # SB) OPTION. NOTE: THE PRICE OF THE ACTUAL CREDIT OPTION IS FOR \$264.00 EVEN THOUGH THE PRICING SHOWS \$0.01 (1 CENT). THE SYSTEM WILL NOT ACCEPT A CREDIT OR NEGATIVE PRICE. (THIS \$264.01 CREDIT SHOULD APPEAR ON THE VENDOR'S INVOICE).

Vendor Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

V E N D O R	32 FORD MERCURY INC		
	610 W MAIN ST		
	BATAVIA	OH	45103
	US		

Line	CL Description	Delivery Days	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	KY 2010 FLEET 32 FORD MERCURY		0.00		0.00000	0.00	0.00

Extended Description

KY 2010 FLEET 32 FORD MERCURY

Total Order Amount:

0.00

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VENDOR CONTACT INFORMATION:

MR. DAVE TRIMPE
32 FORD MERCURY, INC.
610 West Main Street
Batavia, OH 45103
Cell #: (513) 720-2281
Toll Free #: (866) 540-1905
Phone #: (513) 732-2681
Fax #: (513) 732-2868
Email: Dave@32FordFleet.com

COMMONWEALTH CONTACT INFORMATION:

MIKE GUSTAFSON, CPPO, CPPB
Strategic Procurement Specialist II
Office of Procurement Services (OPS)
Finance and Administration Cabinet
Room 096 New Capitol Annex
702 Capital Avenue
Frankfort, KY 40601-3448
Phone #: (502) 564-5945
Main Office Phone #: (502) 564-4510
Office Fax #: (502) 564-1434
E-mail: mike.gustafson@ky.gov

MODIFICATION #4-13 (DECEMBER 6, 2009) -

This Modification is to ADD new Catalog Line Items to the Master Agreement in accordance with the Terms and Conditions of the Master Agreement. This addition is at the request of EEC GAPS and the Vendor.

Line Items added are:

1002.41 - 2010 FORD F-150: XL PLUS PACKAGE OPTION

2010 FORD F-150: XL PLUS PACKAGE INCLUDES: AM / FM STEREO / CLOCK / SINGLE CD, CRUISE CONTROL AND MYKEY (ORDER CODE # 61X) OPTION. **COST OF \$450.00.**

1002.42 - 2010 FORD F-150 6.5 FOOT BED 145 IN WB (CREDIT)

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2010 FORD F-150 6.5 FOOT BED (DEDUCT FOR 6.5 FT SHORT BED) 145 INCH WHEEL BASE (WB) (ORDER CODE # SB) OPTION. NOTE: THE PRICE OF THE ACTUAL **CREDIT OPTION IS FOR \$264.00** EVEN THOUGH THE PRICING SHOWS \$0.01 (1 CENT). THE SYSTEM WILL NOT ACCEPT A CREDIT OR NEGATIVE PRICE. (THIS \$264.01 CREDIT SHOULD APPEAR ON THE VENDOR'S INVOICE).

Vendor Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-12 (OCTOBER 19, 2009) -

This Modification is to load the 2010 catalog pricing for the 2010 Ford F-150 and F-450 model trucks. Their pricing was left off of the previous catalog load. No other changes were made to the Master Agreement.

The Vendor Catalog Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-11 (OCTOBER 5, 2009) -

This Modification is to renew the Master Agreement for an additional year per the Terms and Conditions of the Master Agreement.

The Vendor Renewal Agreement Form and the Catalog Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

The following additional Terms are added with regard to using any Federal Stimulus (ARRA) funding for vehicles.

1. PREAMBLE

To the extent that this Master Agreement or Contract involves the use of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 '(ARRA)' funds, the following terms and conditions apply.

For the purposes of applying these terms and conditions, the following definitions apply:

- I. A "prime recipient" is a non-Federal entity that receives Recovery Act funding as Federal awards in the form of grants, loans, or cooperative agreements directly from the Federal government.

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- II. A “sub-recipient” is a non-Federal entity that expends Federal awards received from another entity to carry out a Federal program but does not include an individual who is a beneficiary of such a program.
- III. A “Vendor” is defined as a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. Prime recipients or sub-recipients may purchase goods or services needed to carry out the project or program from vendors. Vendors are not awarded funds by the same means as sub-recipients and are not subject to the terms and conditions of the Federal financial assistance award.

The Vendor or sub-recipient specifically agrees to comply with each of the terms and conditions contained herein.

The Vendor or sub-recipient understand and acknowledges that the federal stimulus process is evolving and that new requirements for ARRA compliance may still be forthcoming from the Federal government and from the Commonwealth of Kentucky. Accordingly, the sub-recipient / Vendor specifically agree that both it and any sub-grantees / subcontractors will comply with all such requirements during the contract period.

2. AVAILABILITY OF FUNDING

Vendor / sub-recipient agree that programs supported with temporary federal funds made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, will not be continued with state financed appropriations once the temporary federal funds are expended.

3. BUY AMERICAN REQUIREMENT (IF APPLICABLE)

Vendor / sub-recipient agrees that in accordance with ARRA, Section 1605, neither the Vendor / sub-recipient or its subcontractors / sub-grantees will use ARRA funds for a project for the construction, alternation, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Vendor / sub-recipient understand that this requirement may only be waived by the applicable federal agency in limited situations

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as set out in ARRA, Section 1605.

4. CONFLICTING REQUIREMENTS

Vendor / sub-recipient agree that, to the extent ARRA requirements conflict with Commonwealth of Kentucky requirements, the ARRA requirements shall control.

5. FALSE CLAIMS ACT

Vendor / sub-recipient agree that it shall promptly refer to an appropriate federal Inspector General any credible evidence that a principal, employee, agent, sub-grantee, sub-contractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

6. ENFORCEABILITY

Vendor / sub-recipient agree that if the Vendor / sub-recipient or one of its sub-contractors / sub-grantees fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the Commonwealth of Kentucky may withhold or suspend, in whole or in part, funds awarded under the program, or recover mis-spent funds following an audit. This provision is in addition to all other remedies available to the Commonwealth of Kentucky under all applicable state and federal laws.

7. INSPECTION OF RECORDS

Vendor / sub-recipient agree that it shall permit the United States Comptroller General or his representative or the appropriate Inspector General appointed under Section 3 or 8G of the Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this Master Agreement / Contract; and (2) interview any officer or employee of Vendor / sub-recipient or any of its sub-contractors / sub-grantees regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

8. JOB POSTING REQUIREMENTS

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Vendors / sub-recipients who receive ARRA funded Master Agreement / Contracts are required to post jobs created and retained as a result of stimulus funds on the Commonwealth of Kentucky Job Bank at: <https://e3.ky.gov/>

9. PROHIBITION ON USE OF ARRA FUNDS

Vendor / sub-recipient agree that none of the funds made available under this Master Agreement / Contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects.

10. REPORTING REQUIREMENTS

Pursuant to Section 1512 of the ARRA, entities receiving ARRA funds must submit reports to the federal government no later than ten (10) calendar days after the end of each calendar quarter. This report must contain the information outlined below.

Accordingly, each sub-recipient agrees to provide the Commonwealth with the following information in a timely manner:

- a. Sub-recipient's DUNS number;
- b. Award number or other identifying number assigned by the prime recipient;
- c. The total amount of ARRA funds received by sub-recipient during the reporting period;
- d. The amount of ARRA funds that were expended or obligated during the reporting period;
- e. A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
 - i. the name of the project or activity;
 - ii. a description of the project or activity;
 - iii. an evaluation of the completion status of the project or activity; and

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- iv. an estimate of the number of jobs created and the number of jobs retained by the project or activity;
 - v. the primary place of performance of the sub-award, including the city, state, congressional district and country;
 - vi. The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; and 2) \$25M or more in annual gross revenue from Federal awards.
- f. Any other information reasonably requested by the Commonwealth or required by State or Federal law or regulation.

Each Vendor must supply their DUNS number and an estimate of the number of jobs created and number of jobs retained as a result of the award of ARRA funds.

OMB Memorandum M-09-21 dated June 22, 2009, outlines the standard data elements and federal implementation guidance for use in complying with the reporting requirements under Section 1512 of the ARRA.

11. SEGREGATION OF FUNDS

Vendor / sub-recipient agree that it shall segregate obligations and expenditures of Recovery Act funds from other funding. No part of funds made available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be comingled with any other funds or used for a purpose other than that of making payments for costs allowable under the ARRA.

12. SUBCONTRACTOR / SUBGRANTEE REQUIREMENTS

Vendor / sub-recipient agrees that it shall include these standard terms and conditions, including this requirement, in any of its sub-contracts or sub-grants in connection with projects funded in whole or in part with funds available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

13. WAGE REQUIREMENTS (IF APPLICABLE)

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Vendor / sub-recipient agree that, in accordance with Section 1606 of the ARRA, both it and its sub-contractors shall fully comply with this section in that, notwithstanding any other provision of law, and in a manner consistent with the other provisions of the ARRA, all laborers and mechanics employed by Contractors and sub-contractors on projects funded in whole or in part with funds available under the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with sub-chapter IV of chapter 31 of Title 40 of the United States Code. The Secretary of Labor's determination regarding the prevailing wages applicable in the Commonwealth of Kentucky are located at: <http://www.gpo.gov/davisbacon/ky.html>

14. WHISTLEBLOWER PROTECTION

Vendor / sub-recipient agree that both it and its sub-contractors / sub-grantees shall comply with Section 1553 of the ARRA, which prohibits all non-federal Vendor / sub-recipients of ARRA funds, including the Commonwealth of Kentucky, and all Contractors and grantees of the Commonwealth of Kentucky, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds. Vendor / sub-recipient agrees that it and its sub-contractors / sub-grantees shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.

Terms requested to be added by Louisville Metro Government:

REQUIRED FEDERAL TERMS

Per 28 CFR 66.36:

1. Bidder agrees to provide the Purchaser, the United States Department of Justice Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records

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of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

2. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the U.S. Department of Justice Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.
3. Energy Conservation - The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. See KRS 45A.351.
4. Clean Water –
 - a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Metro Government and understands and agrees that the Metro Government shall, in turn, report each violation as required to assure notification to the Department of Justice and the appropriate EPA Regional Office.
 - b. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by the United States Department of Justice.
5. Clean Air –
 - a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Metro Government and understands and agrees that the Metro Government shall, in turn, report each violation as required to assure notification to the U.S Department of Justice and the appropriate EPA Regional Office.
 - b. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal

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assistance provided by the U.S. Department of Justice.

6. The Contractor agrees to comply with Executive Order 11738 and EPA regulations, including but not limited to 40 CFR 15.
7. **Copyrights –**
 - a. The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - i. The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
 - ii. Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
8. **Patent Rights** - This following requirements apply to each contract involving experimental, developmental, or research work:
 - a. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Metro Government and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the United States Department of Justice is ultimately notified.
 - b. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Metro Government and the Contractor agree to take the necessary actions to provide, through the United States Department of Justice, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
 - c. The Contractor also agrees to include the requirements of this clause in

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each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by the United States Department of Justice.

9. The Contractor agrees that the reporting requirements contained in 44 CFR 13.40 and 13.41 apply to this Contract and further agrees to abide by any of the requirements therein applicable to it.

10. This contract is a covered transaction for purposes of 29 CFR Part 98. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 29 CFR 98.995, or affiliates, as defined at 29 CFR 98.905, are excluded or disqualified as defined at 29 CFR 98.940 and 98.945.

The contractor is required to comply with 29 CFR 98, Subpart C and must include the requirement to comply with 29 CFR 98, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by **Louisville Metro Government**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **Louisville Metro Government**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

MODIFICATION #4-10 (MAY 22, 2009) -

This Modification updates the Master Agreement Catalog of Line Items for the 2010 Ford Fusion per the Terms and Conditions of the Master Agreement. This is at the request of the Vendor. It also adds the 2010 Ford Fusion Hybrid model as an option. The 2010 Ford F-150 and F-450 model pricing will be updated at a later date when the 2010 pricing is available from Ford & 32 Ford.

The Vendor Catalog Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-9 (SEPTEMBER 25, 2008) -

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This Modification updates the Master Agreement for the 2009 Ford F-150 and F-450 Catalog of Line Items per the Terms and Conditions of the Master Agreement. This is at the request of the Vendor and the City of St. Matthews. Modification #4-8 actually loaded in the 2009 F-150 and **2008** F-450 pricing so that KYTC Division of Equipment could complete their Delivery Order for their 2009 F-450s at the 2008 pricing level. Ford and 32 Ford have agreed to build the 2009 model trucks at the 2008 pricing level. The KYTC Division of Equipment Delivery Order will state 2008 models but 2009 models are what they will receive. This Modification now updates the **2009 F-450 with the 2009** pricing.

The Vendor Catalog Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-8 (SEPTEMBER 25, 2008) -

This Modification updates the Master Agreement for the 2009 Ford F-150 and F-450 Catalog of Line Items per the Terms and Conditions of the Master Agreement. This is at the request of the Vendor and the City of St. Matthews.

The Vendor Catalog Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-7 (AUGUST 21, 2008) -

This Modification Renews the Master Agreement for an additional year per the Terms and Conditions of the Master Agreement. It updates the Line Item Catalog to reflect the 2009 Ford Fusion model and option information as well as the 2009 pricing. Another Modification will be completed later on when the Vendor receives the 2009 pricing for the remaining Ford F-150 and F-450 Catalog Line Items.

The Vendor Renewal Agreement Form and the Catalog Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-6 (NOVEMBER 4, 2007) -

This Modification Renews the Master Agreement per the Terms and Conditions of the Master Agreement. It updates the Line Item Catalog to reflect 2008 model and option information as well as 2008 pricing.

The Vendor Renewal Agreement Form and the Line Item pricing and option information

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documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-5 (JUNE 28, 2007) -

This Modification is to ADD a Line Item to the Master Agreement per the Terms and Conditions of the Contract. This addition is at the request of the Department of Agriculture and the Vendor.

Line Item added is:

1003.101 - 2007 FORD F450 SUPER DUTY C&C 4X2 REG CAB, DIESEL
2007 FORD F450 SUPER DUTY CHASSIS 4X2 REGULAR CAB, DIESEL, AUTOMATIC
COST OF \$29,212.25.

Vendor Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-4 (MAY 9, 2007) -

This Modification is to correct the Extended Description for the Ford F-150 pickup per the Terms and Conditions of the Contract. This correction is at the request of the EPPC Division of Forestry and the Vendor.

Item corrected is as follows:

1002.00 - 2007 FORD F-150 X12 SUPERCAB 163 INCH XL FROM A 4 WHEEL DRIVE
(4WD) TO 2 WHEEL DRIVE (2WD) MODEL, 995: 5.4L 3V EFI V8 ENGINE

Vendor Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-3 (MAY 7, 2007) -

This Modification is to add four (4) Line Items to the Master Agreement per the Terms and Conditions of the Contract. These optional Line Items are at the request of the Department of Agriculture and the Vendor.

Items added are:

1003.97 - 2008 FORD SUPER DUTY F-450 DRW REG CAB: STEEL GOOSENECK

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BODY

2008 FORD SUPER DUTY F-450 DRW F46 REG CAB: STEEL GOOSENECK BODY - 9 FOOT LONG, STEEL TREADPLATE, TAPERED BULKHEAD, 2-5/16 INCH GOOSENECK BALL WITH TRAPDOOR, REAR MOUNTED CLASS IV RECEIVER HITCH, (2) 7-POLE TRAILER PLUGS, FEDERAL 108 LIGHTING, MUDFLAPS (ORDER CODE SGB) OPTION. **COST OF \$3,495.00.**

1003.98 - 2008 FORD SUPER DUTY F-450 DRW REG CAB: CONTRACTOR PACKAGE

2008 FORD SUPER DUTY F-450 DRW F46 REG CAB: GOOSENECK CONTRACTOR PACKAGE - (2) 46 INCH TOPSIDE TOOLBOXES, (1) 30 INCH UNDERBODY TOOLBOX, (1) 24 INCH UNDERBODY TOOLBOX AND 6 INCH HIGH SIDE/REAR RACKS (ORDER CODE CSP) OPTION. **COST OF \$2,495.00.**

1003.99 - 2008 FORD SUPER DUTY F-450 DRW REG CAB: 14 FT ALUM VAN BODY

2008 FORD SUPER DUTY F-450 DRW F46 REG CAB: 14 INCH ALUMINUM VAN BODY, OHF, PLYWOOD LINING, (2) ROWS E-TRACK, TRANSLUCENT ROOF, REAR BUMPER, WHITE (ORDER CODE VB14) OPTION. **COST OF \$7,196.00.**

1003.100 - 2008 FORD SUPER DUTY F-450 DRW REG CAB: 2,000 LB RAILGATE

2008 FORD SUPER DUTY F-450 DRW F46 REG CAB: AL RAILGATE, 90 INCH X 60 INCH X 12 INCH, 2,000 LB. CAPACITY, ABOVE BED OPTION, LIGHT KIT AND PENDANT CONTROL (ORDER CODE ALRG) OPTION. **COST OF \$5,158.00.**

Vendor Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4-2 (MARCH 22, 2007) -

This Modification is to Renew the Master Agreement per the Terms and Conditions of the Contract. It also adds optional Line Items at the request of the Vendor and Agency.

Vendor Line Item pricing and option information documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #4 (JANUARY 24, 2006) -

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This Modification is to add an optional equipment Line Item per the Master Agreement Terms and Conditions. Item added is Line Item 1003.104 - Raised 60 inch high Bottle G as Compartment with Retaining Straps and Vented Compartment – cost of \$1,900.00.

Agency and Vendor Line Item pricing and description documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #3 (JANUARY 3, 2006) -

This Modification is to add equipment optional Line Items per the MA for Line Items 1003.100 through 1003.103.

Agency and Vendor Line Item pricing and description documentation are on file in the Bid File in the Bid File Room.

MODIFICATION #2 (DECEMBER 15, 2005) -

This Modification is to add equipment optional Line Items per the MA.

Additions are for Line Items 1000.00, 1001.00, 1002.00, and 1003.00.

Vendor Line Item pricing documentation is on file in the Bid File in the Bid File Room.

MODIFICATION #1 (OCTOBER 31, 2005) -

This Modification is to correct Line Item 1002.00, 2006 Ford F150 Super Cab from a 4 Wheel Drive vehicle to a 2 Wheel Drive vehicle. Changes also made to the option items 1002.01 and 1002.02 to correct them as well.

Vendor Line Item Option description documentation is on file in the Bid File in the Bid File Room.

For quick reference for both the Dealer and the ordering agency or local government, the following points are provided:

Several generic points that apply to ALL models on the MA:

Vendor's pricing should include the following:

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1. KYTC Division of Fleet Management will require all Dealers of all models to provide a **training course / package for their mechanics** on all new models or models that they are not currently trained on. This will be at not cost to Fleet Mgmt. Training may be either at the Dealer's location or at the T-1 Garage in Frankfort.
2. ALL Fleet vehicles (cars, pick-ups, passenger and cargo vans, and SUVs) shall come complete with **OEM supplied floor mats** (front and rear) for those vehicles that the Manufacturer supplies them for. This may vary where vehicles are ordered with vinyl flooring.
3. The Commonwealth requires a total of **FOUR (4) keys** per vehicle ordered. This applies to either the programmable key or the standard, non-programmable key. This also includes those models where the remote is "built into" the key. Should additional programmable keys not be available (either from the Manufacturer or the Dealer), the Dealer should inform the Commonwealth Buyer as to which model and the reason(s) for the key non-availability.
4. The Commonwealth is requesting that delivery of each vehicle (whether delivered directly from the Dealer's location or should some arrive on a bulk vehicle transport from the Manufacturer's Distribution Center) arrive at the ordering agency's location with **one-half (1/2) tank of fuel** as measured by the gas gauge. This Specification is a part of the Master Agreement Specifications for each model. The Commonwealth believes that this will provide for an adequate fuel level for KYTC Fleet Management (and other ordering Agencies / Local Governments) to complete internal vehicle preparation, transfer, and delivery. This will also allow the Commonwealth to complete the refueling process (from a half tank level up to a full tank level) with fuel at a more advantageous price point for the Commonwealth. **Agencies or local governments should ensure that this is verified during the inspection and acceptance phase upon delivery.**

Vehicle delivery is **requested** within forty five (45) calendar days from receipt of Catalog Delivery Order or sooner if possible.

This MA has a requirement in that the Commonwealth will require the Dealer to provide the newly assigned Vehicle Identification Number (VIN) back to the ordering Agency / local government for the vehicle(s) ordered within **10 calendar days** or as soon as possible from the manufacturer's ordering system. This will serve as a follow up that the order was received by the Dealer and entered into the Manufacturer's ordering system. This VIN can then be used by the Agency to do internal order tracking

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as to tentative production date, shipment date, and delivery date. This VIN can be written on the Catalog Delivery Order and faxed back to the ordering Agency. The Commonwealth will **STRONGLY encourage** that ordering Agencies fax their Catalog Delivery Orders to the Dealer, to the attention of the Dealer's point of contact, as well as to make a follow up phone call to tell the Dealer the order was faxed. This should ensure no orders get "sent but not received."

TERMS AND CONDITIONS **MASTER AGREEMENT**

Section 1

Scope of Contract

This Master Agreement is for the Vendor to provide various Fleet Vehicles for the Kentucky Division of Fleet Management as well as other state Agencies. Additional Specification information as to the types and models of equipment is available in Section 11 – Specifications.

Section 2

Purpose

The purpose of this Master Agreement is to request that the Vendor provides these items under Master Agreement to the Division of Fleet Management. It also is to provide the minimum specifications for the purchase of the equipment that meets the needs and desires of the Agency. This Master Agreement establishes essential criteria for the design, performance, capabilities, and appearance of the equipment.

Section 3

Initial Contract Period

The Office of Procurement Services issues this Master Agreement (MA) for the State of Kentucky. This Master Agreement shall be for a period of one (1) year from the date of contract award.

Section 4

Renewal Clause

This Master Agreement may be renewed at the completion of the initial contract period for four (4) additional one (1) year periods. This renewal shall have the written approval of the Vendor and the Office of Procurement Services.

Section 5

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Renewal Clause – Optional Renewal Period

As this Master Agreement provides for an optional renewal period, the Commonwealth of Kentucky reserves the right to renegotiate any terms and / or conditions as may be necessary to meet requirements for the extended period. The Vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the Master Agreement in an extended period.

Section 6

Agencies to Be Served

This Master Agreement shall be for use by the Kentucky Transportation Cabinet's Division of Fleet Management.

Section 7

Extending the Contract Use to Other Agencies

The Office of Procurement Services reserves the right, with the consent of the Vendor, to offer this Master Agreement to other state agencies requiring the product(s) or service(s).

Section 8

Political Subdivisions

Under Kentucky Statutes, political subdivisions of this State including cities of all classes, counties, and school districts may participate in All-State Agency Master Agreements to the same extent as agencies of the Commonwealth.

Section 9

Equal Employment Opportunity Act

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$250,000. The Vendor shall comply with all terms and conditions of the Act. A copy of the EEO forms may be obtained by downloading them from the Office of Procurement Services' website at <http://finance.ky.gov/business/eprocurement/attchmn.htm> or by contacting the Commonwealth Buyer. The EEO Form is available on the e-Procurement Directory under the "General Vendor Info Area" of Standard Attachments and General Terms <http://www.state.ky.us/agencies/adm/mars/attchmn.htm>. The EEO form is listed under Attachment #4. The EEO forms were changed as of July 1, 2003, and these forms are now on the mentioned web site. Direct coordination with the EEO Office is approved to discuss **EEO requirements and forms**. Their phone number is (502) 564-2874 and fax (502) 564-1055.

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*The Commonwealth will review the EEO Form (or equivalent, if applicable) upon receipt. The Vendor will receive notification from the Commonwealth if they are under-utilized or in non-compliance. The Vendor shall have five (5) calendar days from receipt of such notice to submit an Affirmative Action Plan. Failure to submit an Affirmative Action Plan within the time frame specified may result in cancellation of the MA. In any event, **a Vendor shall not be eligible for an award of contract or a contract renewal without being in compliance with the EEO requirements.***

Section 10

Vendor's Report to the Commonwealth Buyer

The Vendor shall furnish the Commonwealth Buyer, Office of Procurement Services, a consolidated Consumption Data Report showing the equipment volume (by equipment model and / or option item code), detailed by Agency and / or political sub-division, which has been sold to the Commonwealth and its using **agencies for each six (6) month period of the contract. This report will also include all political subdivisions and university purchases.** This report shall include sales of all types. Please report as completely and accurately as possible. This report may be in the form of the Vendor's computer printout sheet or form. This shall apply to all items, which are to become a part of this contract. This report must reference usage by contract item number, brief description and product codes (if available) or other format designated by the Office of Procurement Services (OPS). The Commonwealth Buyer will assist the Vendor with data format and essential information required in the report. **Reports are due to the Commonwealth Buyer No Later Than (NLT) January 15th and July 15th of each year while this Master Agreement is in effect.** The Office of Procurement Services will enforce this requirement. Failure to submit these reports may be just cause for cancellation of the contract.

Section 11

Specifications

The Specifications and Technical information for the 2006 Fleet Vehicles (Cars, Pick-ups (1 ton and less), Passenger Vans, Cargo Vans, and SUVs) are available in the individual Line Item Description and Extended Description fields in the MA.

Several generic points that apply to ALL models on the MA:

Vendor's pricing should include the following:

1. KYTC Division of Fleet Management will require all Dealers of all models to

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provide a training course / package for their mechanics on all new models or models that they are not currently trained on. This will be at not cost to Fleet Mgmt. Training may be either at the Dealer's location or at the T-1 Garage in Frankfort.

2. ALL Fleet vehicles (cars, pick-ups, passenger and cargo vans, and SUVs) shall come complete with **OEM supplied floor mats** (front and rear) for those vehicles that the Manufacturer supplies them for. This may vary where vehicles are ordered with vinyl flooring.
3. The Commonwealth requires a total of **FOUR (4) keys** per vehicle ordered. This applies to either the programmable key or the standard, non-programmable key. This also includes those models where the remote is "built into" the key. Should additional programmable keys not be available (either from the Manufacturer or the Dealer), the Dealer should inform the Commonwealth Buyer as to which model and the reason(s) for the key non-availability.
4. The Commonwealth is requesting that delivery of each vehicle (whether delivered directly from the Dealer's location or should some arrive on a bulk vehicle transport from the Manufacturer's Distribution Center) arrive at the ordering agency's location with **one-half (1/2) tank of fuel** as measured by the gas gauge. This Specification is a part of the Master Agreement Specifications for each model. The Commonwealth believes that this will provide for an adequate fuel level for KYTC Fleet Management (and other ordering Agencies / Local Governments) to complete internal vehicle preparation, transfer, and delivery. This will also allow the Commonwealth to complete the refueling process (from a half tank level up to a full tank level) with fuel at a more advantageous price point for the Commonwealth. **Agencies or local governments should ensure that this is verified during the inspection and acceptance phase upon delivery.**

Section 12

Equipment Delivery

Unless otherwise specified in this Master Agreement, delivery is **requested** within forty five (45) calendar days from receipt of Catalog Delivery Order after award of this Master Agreement. Sooner delivery is requested whenever possible. In some cases, staggered delivery dates may be requested. It is understood that providing a firm delivery time may be somewhat out of the hands of the Dealers due to heavier model demand, plant shutdown, model year changeover, etc.

When delivery is not made as provided in this contract, the Office of Procurement Services reserves the right to purchase the equipment on the open market, with any

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cost in excess of the contract price paid by the Vendor. Failure of the Vendor to meet contract delivery dates may also be cause for cancellation, removal from eligibility for future contracts, or both.

Equipment delivery shall be between the hours of 8:00 AM and 4:00 PM (prevailing time) weekdays only (Saturday, Sunday and State Holidays excluded).

The Commonwealth realizes that manufacturer production capacity and other factors all impact the actual delivery time. The intent of having a **requested** delivery time is to ensure that the vehicles get ordered in a timely manner and that once delivered to the Dealer, they get delivered to the Commonwealth in a timely manner. The 1% penalty per calendar day is to protect the Commonwealth from “unreasonable delays” in the ordering or the delivering of the vehicles.

This MA has a requirement in that the Commonwealth will require the Dealer to provide the newly assigned Vehicle Identification Number (VIN) back to the ordering Agency / local government for the vehicle(s) ordered within **10 calendar days** or as soon as possible from the manufacturer’s ordering system. This will serve as a follow up that the order was received by the Dealer and entered into the Manufacturer’s ordering system. This VIN can then be used by the Agency to do internal order tracking as to tentative production date, shipment date, and delivery date. This VIN can be written on the Catalog Delivery Order and faxed back to the ordering Agency. The Commonwealth will **STRONGLY encourage** that ordering Agencies fax their Catalog Delivery Orders to the Dealer, to the attention of the Dealer’s point of contact, as well as to make a follow up phone call to tell the Dealer the order was faxed. This should ensure no orders get “sent but not received.”

Dealers will not be penalized for manufacturing delays. Again, the intent is to be able to get timely deliveries all things being considered.

As to paying the difference, this language means that if a vehicle has been ordered with a valid Catalog Delivery Order, and the Vendor does not delivery it in the 45 calendar days, or a timely manner that has been discussed and agreed upon by the ordering Agency and the Dealer, then the Commonwealth may purchase the same vehicle at another Dealer, and the contracted Dealer would be responsible for the cost difference between the purchase and the contracted price. This would be done most likely only in rare instances. Again, discussions between the Manufacturer, contracted Dealer, ordering Agency, and the Commonwealth Buyer can resolve most delivery issues once they are identified.

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Section 13

Pricing

All pricing shall be FOB destination, Freight Prepaid and Allowed. Pricing shall be complete. The pricing shall include warranty / certifications.

Section 14

Inspection

All supplies, equipment, and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at the Vendor's expense.

Section 15

Equipment / Condition

Unless otherwise indicated in this Master Agreement, it is understood and agreed that any item offered or shipped on this Master Agreement shall be new and the latest or current year model and be in first class condition. Any unit failing to meet the foregoing requirements shall be returned to the Vendor, at their expense, and replaced with a new unit.

Section 16

Equipment Acceptance

Acceptance of the equipment at the point and time of delivery shall not be interpreted as an indication by the State that the equipment received is acceptable. Final acceptance and authorization for payment shall only be given after a thorough inspection has determined that the equipment is in accordance with specifications.

The Vendor is advised that in the event that the delivered equipment differs in any respect from the specifications, then, and in that event, payment to the Vendor will be withheld until such time as Vendor takes necessary corrective action. The Office of Procurement Services (OPS) may at its discretion refuse to accept delivery of the equipment, in which case the equipment shall remain the property of the Vendor and the State shall not be liable for payment of any nature. Should a representative of the State agree to accept any equipment with items of equipment or parts missing on the condition that said missing items will be furnished by the Vendor, then, and in that event, the Vendor is to understand that payment(s) for the equipment will be withheld until the missing items are delivered and installed.

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Section 17

Payment

Payment(s) shall be made after delivery of the equipment. Partial payments are authorized when multiple items are ordered at one time or under other circumstances when deemed necessary. This is due to possible different number of delivery days (depending on the equipment model), request for staggered deliveries, and availability from the manufacturer, and production order lead-time.

Under Kentucky Revised Statute (KRS) 45.454 – Penalty for Late Payment, it states - “An interest penalty of one percent (1%) of any amount approved and unpaid shall be added to the amount approved for each month or fraction thereof after the thirty (30) working days which followed receipt of the goods or services or Vendor's invoice by a purchasing agency.” **Payment will be made upon delivery and acceptance of equipment.** This time may be different than when an invoice is received. For example, a vehicle is ordered on February 1st with delivery scheduled for May 1st. An invoice is mailed and received on Feb 15th stating the 30 days for payment. The vehicle is received and accepted at the Agency location on May 1st. Agency payment target date is June 15th (30 working days after receipt of equipment) and not April 2nd (30 working days after the invoice was received.) Should the agency not pay for the vehicle until June 30th, the Agency would be liable for the 1% late payment penalty fee. The key date in this issue is the latter of the receipt date of the invoice or the receipt and acceptance date of the equipment. The 30 working day payment window starts on the latter of these two dates.

Example 1 - The equipment is received on May 1st the invoice is received on May 15th, the due date for payment will be 30 working days from the date that the invoice was received.

Example 2 - The invoice is received on May 1st, part of the order is received on May 15th, the remainder of the order is not received until May 30th, and the due date for payment of the invoice is 30 working days from May 30th.

Example 3 - If any piece of equipment is not correct or if the invoice is not correct, the 30 working days should not start until everything is correct and acceptable.

Section 18

Addition or Deletion of Items or Services

The Office of Procurement Services reserves the right to add new and similar items, with the consent of the Vendor, to this Master Agreement. This may consist of new

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vehicle models or optional equipment items. The Office of Procurement Services will issue a Contract Modification to effect this change.

Section 19

Warranty

The Vendor's (or equipment Manufacturer's) most favorable warranties offered to preferred customers shall apply to all items. A copy of such warranty(s) shall be furnished to the agency (if so requested) upon delivery of the equipment or product. The Vendor shall furnish factory warranty on all equipment furnished hereunder against defect in material and/or workmanship. Should any defect in materials or workmanship, excepting ordinary wear and tear, appear during the above stated warranty period, the Vendor shall repair or replace same at no cost to the State immediately upon written notice from the State Agency possessing the equipment. The Vendor will not be liable under the above warranty for any defects or damages resulting from unforeseeable causes beyond the control and without the fault or negligence of the Vendor, such as misuse or neglect by the State, acts of God, fires, floods and hurricanes. Warranty papers shall accompany equipment.

The standard warranty that the manufacturer provides is satisfactory. This may also be known as the manufacturer's standard net state warranty. The Commonwealth requires that the primary or standard manufacturer warranty apply and not a warranty with less coverage. **Vendor should provide a copy of their warranty(s) for the equipment Line Items on this Master Agreement** to the agency upon delivery of the vehicle. The Commonwealth Buyer shall also maintain a copy of the warranty(s) and provide them to the Agency or local government as requested.

Section 20

Tax Exempt Status

Do not include Federal Excise Tax, Kentucky Sales or Use Tax in pricing or invoicing.

Section 21

Post Contract Agreements

This Master Agreement shall constitute the entire agreement between the State and the Vendor. Unless contractually provided, State agencies utilizing this Master Agreement will not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of this Master Agreement. Any such documents so obtained will be non-binding on the State and agents of the State and will be cause for breach of contract.

Section 22

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Equipment / New Technology

All equipment must be a new and current model. The Commonwealth recognizes the rapid advancement of technology. If the Vendor can provide new equipment of advanced technology after the award of the contract, the Commonwealth and the Vendor may choose by mutual agreement to install such equipment. The price of the new technology equipment cannot exceed the cost of the award contract.

Section 23

Basis of Price Revisions

Prices quoted in response to Solicitation S-05297095 shall remain firm for the initial period of this Master Agreement. Upon renewal, prices are subject to revision, which may be either increases or decreases. Contract product and price updates shall be provided by the Vendor in a Microsoft Excel spreadsheet for electronic import into the Procurement Desktop catalog. These updates shall be provided to the Office of Procurement Services on a regular basis; however, no more frequent than every thirty days. This required template format may be seen at <http://mars.ky.gov/vendorcatalogtemplate.htm>. Revisions may be requested by either of the contracting parties and must be requested in writing. The requesting party must furnish documented evidence substantiating the validity of the request. In the event the requested revision is refused, the requesting party shall have the right to withdraw from the contract, without prejudice. Provided, however, that the vendor must continue service, at the contract prices, until a new contract can be established (approximately 90 calendar days).

Section 24

Quantity Basis of Contract – Estimated Quantities

Any and all quantities mentioned in Solicitation S-05297095 are purely estimates, and are not to be implied nor inferred as being guarantees. The State is obligated to buy only that quantity needed by its agencies during the term of the Master Agreement. Requirements may exceed the quantities shown and the Vendor shall be required to furnish all requirements shown on Catalog Delivery Orders dated during the life of the contract.

Section 25

Minimum Order Option

Subject to any specific limitations elsewhere in this Master Agreement, when a State agency requires supplies or services covered by any Master Agreement in a total amount of less than \$1,000, the agency shall not be obligated to place such order under the contract and retains the option to purchase by other means.

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Section 26

FOB Basis of Shipment – Vendor Responsible

The Vendor shall be fully responsible for all shipments FOB Destination, Freight Prepaid and Allowed. FOB Destination in this Master Agreement refers to the Agency and / or Local Government entity placing the order.

Section 27

Funding-Out Provision

Other provisions of this Master Agreement not-with-standing, the Vendor agrees, if funds are not appropriated to the agency or are not otherwise available for the purpose of making payments hereunder, then the agency shall be authorized, upon sixty (60) calendar days written notice to the Vendor, to terminate this agreement without obligation for the payment of any cancellation or termination charges which may be fixed by the agreement without any other obligation or liability hereunder.

Section 28

Cancellation Clause – 30 Days Notice

The Commonwealth may cancel this Master Agreement by giving written notice thirty (30) calendar days prior to effective cancellation date.

Section 29

Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Commonwealth of Kentucky reserves the right to contract for large requirements on the open market.

Section 30

Service Performance

All services performed under contract shall be in accordance with the terms and provisions of this Master Agreement. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

Major deviations of services performed will not be made without the written approval of the Office of Procurement Services. Problems, which rise under any aspect of performance, should first be resolved between the Vendor and the agency. Either party should refer in writing any such problems and / or disagreements that cannot be resolved to the Office of Procurement Services for settlement.

Section 31

Recycle Requirements

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The Vendor is required to comply with Recycle Requirements for the purchase of goods, supplies, equipment, materials and printing with a minimum recycled content to the extent practicable per 200 KAR 5:330. This regulation can be viewed on the Internet at <http://www.lrc.state.ky.us/kar/200/005/330.htm>.

Section 32

Advertising

Each unit shall be entirely free of any and all advertising attachments of the Vendor such as decals, clips, or any other devices bearing Vendor's name or logo.

Manufacturer provided safety, operating instruction, instructional, maintenance, or informational labels are allowed on the equipment.

Section 33

Termination of Contracts

The Commonwealth reserves the right to terminate contracts for convenience when requirements under the contract no longer exist. A written notice will be given to the Vendor at least thirty (30) calendar days prior to such proposed termination date.

Section 34

Agreement between Parties

By submitting a bid to Solicitation S-05297095, the Vendor acknowledges and agrees to be bound by the Terms and Conditions of the Solicitation.

The Vendor agrees that this Master Agreement is the complete and exclusive statement of the agreement between the parties, which supersedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Master Agreement. It is further agreed between the parties, that any valid modification of contractual agreement must be formalized by issuance of a Contract Modification from the Office of Procurement Services.

Section 35

Governmental Restrictions

In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this Master Agreement prior to delivery, it shall be the responsibility of the Vendor to notify the Office of Procurement Services in writing, indicating the specific regulation which requires such alterations. The Commonwealth reserves the right to accept any such alterations, including any subsequent price adjustments, or to cancel the Master Agreement.

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Section 36

Federal Tax Exempt Purchases by the Commonwealth of Kentucky

Contracts Direct With Manufacturer: In the event a manufacturer bids direct and is awarded a contract, the Office of Procurement Services shall request the contractor to furnish evidence of registration with the U.S. Internal Revenue Service. This registration shall be in accordance with the "Temporary Rules, 1958 Excise Tax Act". After such registration, individual Excise Tax Exemption Certificates are not necessary on each individual order issued against the contract by the Office of Procurement Services. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Contract With Other Than Manufacturer: If successful Vendor is other than the manufacturer, the Office of Procurement Services will furnish a Tax Exemption Certificate with each individual order issued against this contract. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Section 37

ALL PROVISIONS OF SOLICITATION # S-05297095 SHALL BE PART OF THIS MASTER AGREEMENT.

ARRA